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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,926	01/22/2004	James F. Cheatham	21321-0011	7835

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EXAMINER

KING, ANITA M

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/763,926

Applicant(s)

CHEATHAM ET AL.

Examiner

Anita M. King

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5 and 7 is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6 is/are rejected.
- 7) ☒ Claim(s) 8 and 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

This is the first office action for application number 10/763,926, Electrical Box Mounting Brackets, filed on January 22, 2004.

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

The drawings are objected to because reference number "37" is not clearly shown in Fig. 2; reference numbers "51" in Fig. 3C and "32" in fig. 3A appear to be incorrect; Figs. 3A and 3C do not appear to be side views as indicated by the specification and based on the front view displayed in Fig. 1; reference number "94" non in Fig. 4 as suggested by the specification on page 18, line 10; in Fig. 4, the lead line for reference number "50" does not appear to be drawn to a fastener; reference number "360" (inner curved edge) in Fig. 29C is different from Fig. 31B (side view); in Fig. 28, not sure what the lead line for reference number "352" is referring to; in Fig. 28, "376" appears to be incorrect and should be --326--; in Fig. 27, "346" is referring to a different element than in Fig. 29C; and in Fig. 31A, reference number "370" appears to

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be incorrect and should be --320--. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "96" has been used to designate both an end and channel; reference character "102" has been used to designate both an end and a cylindrical portion; and reference characters "34" and "36" have been used to designate both an elevated surface and an end plate. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures

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appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "12," "14," "32," "85," "98," "59," "65," "82," "18," "26," "120," "130," "140," "346," "350," "352," "370," "378," "530," and "524". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "530". Corrected drawing sheets in compliance with 37 CFR 1.121(d), or

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amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities: on page 4, line 4, "top" should be --side--; on page 16, line 8, "60" appears to be incorrect; on page 16, line 12, "4B0" should be --40B--; and "Figures 10-3" on page 18, line 13 appears to be incorrect.

Appropriate correction is required.

Claim Objections

Claim 1 is objected to because of the following informalities: in line 30 of claim 1, "an" should be --the--. Appropriate correction is required.

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Claims 8 and 9 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 3, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 1,288,024 to Kendig. Kendig discloses an electrical box mounting bracket (2 and 3) comprising: a first substantially flat and elongated rail (5 & 8 at bottom) having a first end portion and a second end portion and having a length, width and thickness; a second substantially flat and elongated rail (5 & 8 at top) having a first end portion and a second end portion and having length, width and thickness dimensions substantially the same as the corresponding dimensions of the first rail; a first crosstie (4) having a first end portion and a second end portion and having a thickness substantially the same as the first rail and a length less than half the length of the first rail; a second crosstie (7) having a first end portion and second end portion and having substantially the same dimensions as the first crosstie; the first rail and the first crosstie fixedly joined at their respective first end portions such that their respective length dimensions are oriented

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substantially perpendicular; the second rail fixedly joined at its first end portion to the second end portion of the first crosstie such that their respective length dimensions are oriented substantially perpendicular and such that the length dimensions of the first rail and the second rail extend in the same direction and are parallel; the second crosstie fixedly joined at its first end portion to the second end portion of the first rail such that their respective length dimensions are oriented substantially perpendicular and such that the length dimensions of the first crosstie and the second crosstie extend in the same direction and are parallel; the second crosstie fixedly joined at its second end portion to the second end portion of the second rail such that their respective length dimensions are oriented substantially perpendicular; a substantially rectangular aperture (Fig. 1) defined and surrounded by the fixedly joined first crosstie, first rail, second crosstie, and second rail; a plurality of holes (13, 14) formed at predetermined locations in the first and second rails; the plurality of holes defining at least one mounting location for attaching an electrical connection box (17, 18) to the bracket; at least one of the plurality of holes adapted to align with a fastener hole of the electrical connection box placed at the at least one mounting location; and at least one of the plurality of holes adapted to accommodate a fastener (24) for attaching the box to the rails.

In regards to claim 2, Kendig further discloses a first top rail (8 at bottom of Fig. 1) , second top rail (8 at top of Fig. 1), a first bottom rail (5 at bottom of Fig. 1), a second bottom rail (5 at top of Fig. 1), a channel (6) formed along the at least one longitudinal edges of the first and second bottom rails, and the first top rail slidably retained within the channel formed in the first bottom rail and the second top rail slidably retained

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within the channel formed in the second bottom rail, and wherein the bracket is continuously adjustable in length, to accommodate mounting between studs separated from about 16 inches to about 24 inches.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 4 (as it depends from claim 1) are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,964,525 to Coffey et al., hereinafter, Coffey. Coffey discloses an electrical box mounting bracket (10) comprising: a first substantially flat and elongated rail (18) having a first end portion and a second end portion and having a length, width and thickness; a second substantially flat and elongated rail (20) having a first end portion and a second end portion and having length, width and thickness dimensions substantially the same as the corresponding dimensions of the first rail; a first crosstie (30) having a first end portion and a second end portion and having a thickness substantially the same as the first rail and a length; a second crosstie (32) having a first end portion and second end portion and having substantially the same dimensions as the first crosstie; the first rail and the first crosstie fixedly joined at their respective first end portions such that their respective length dimensions are oriented substantially perpendicular; the second rail fixedly joined at its first end portion

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to the second end portion of the first crosstie such that their respective length dimensions are oriented substantially perpendicular and such that the length dimensions of the first rail and the second rail extend in the same direction and are parallel; the second crosstie fixedly joined at its first end portion to the second end portion of the first rail such that their respective length dimensions are oriented substantially perpendicular and such that the length dimensions of the first crosstie and the second crosstie extend in the same direction and are parallel; the second crosstie fixedly joined at its second end portion to the second end portion of the second rail such that their respective length dimensions are oriented substantially perpendicular; a substantially rectangular aperture (Fig. 3) defined and surrounded by the fixedly joined first crosstie, first rail, second crosstie, and second rail; a plurality of holes (72, 74, 76, 78) formed at predetermined locations in the first and second rails; the plurality of holes defining at least one mounting location for attaching an electrical connection box (108) to the bracket; at least one of the plurality of holes adapted to align with a fastener hole of the electrical connection box placed at the at least one mounting location; at least one of the plurality of holes adapted to accommodate a fastener (126, 128, 130, 132) for attaching the box to the rails; at least a flat tab (@70) formed integrally with the first rail; the at least one flat tab extending in the width dimension of the first rail in a direction from the first rail toward the second rail, and extending along a portion of the length of the first rail; at least one hole (56, 58) formed in the at least one flat tab adapted to align with at least one fastener hole of the electrical box; and whereby the electrical box

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may be attached to the bracket by means of a fastener installed through the at least one hole formed in the at least one flat tab and an aligned electrical box fastener hole.

Coffey discloses the claimed invention except for the limitation of the first and second crossties having a length less than half the length of the first rail. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the length of the rails in Coffey so that the crossties can have a length less than half the length of the first rail for the purpose of providing a bracket that could accommodate numerous electrical boxes spaced along the length of the bracket and since such a modification would have merely involved a change in size.

Allowable Subject Matter

Claims 5 and 7 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: the primary reasons for the indication of the allowable subject matter in the above claims are the limitations of an electrical box mounting bracket having first and second substantially flat and elongated midsection rails each having at least one longitudinal edge, a length, a first end, and a second end, in combination with the other elements recited in independent claim 5, which is not found in the prior art of record.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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U.S. Patent 3,182,805 to Foster, Jr. et al.

U.S. Patent 5,114,105 to Young

U.S. Patent 5,516,068 to Rice

U.S. Patent 5,931,425 to Oliva

U.S. Patent 6,209,836 to Swanson

U.S. Patent 6,666,419 to Vrame

U.S. Patent 6,803,521 to Vrame


The above patents all disclose various types of brackets for supporting electrical boxes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita M. King whose telephone number is (571) 272-6817. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Anita M. King
Primary Examiner
Art Unit 3632

June 9, 2005